



**ORIGINAL**  
BEFORE THE ARIZONA CORPORATIO  
**RECEIVED**

COMMISSIONERS

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MIKE GLEASON  
KRISTIN K. MAYES

2006 JUN 15 1 P 4: 25

AZ CORP COMMISSION  
DOCUMENT CONTROL

IN THE MATTER OF THE COMMISSION ON ITS  
OWN MOTION INVESTIGATING THE FAILURE  
OF KACY PARKER DBA ARROYO WATER  
COMPANY, INC. TO COMPLY WITH  
COMMISSION RULES AND REGULATIONS.

DOCKET NO. W-04286A-06-0399

**COMPLAINT AND PETITION FOR  
ORDER TO SHOW CAUSE**

Staff of the Utilities Division ("Staff") of the Arizona Corporation Commission ("Commission"), for its Complaint and Petition for Order to Show Cause ("OSC") against Arroyo Water Company, Inc. ("Arroyo" or "Company"), an Arizona Public Service Corporation, alleges:

JURISDICTION

1. The Commission has jurisdiction to hear complaints against public service corporations pursuant to A.R.S. § 40-246. The Commission has jurisdiction to supervise and regulate public service corporations pursuant to Article XV of the Arizona Constitution and Title 40 of the Arizona Revised Statutes.

2. Arroyo is a Public Service Corporation as defined by Article XV, § 2 of the Arizona Constitution and has operated under a Certificate of Convenience and Necessity ("CC&N") which was originally granted in Decision No. 49584, dated January 5, 1979. The CC&N was conditioned upon compliance with Arizona Law and the Commission's Rules.

FACTUAL BACKGROUND

3. On October 19, 2004, Staff received an application from Kacy Parker requesting issuance of a new CC&N and approval of the sale of assets to Kacy Parker, dba Arroyo Water Company.

4. A procedural order issued on April 19, 2005, instructed Staff to file a Staff Report in the matter by June 3, 2005. On June 1, 2005, Staff filed a request for extension of time to file that Staff Report and on June 2, 2005, a procedural order granted Staff an extension on the Staff Report

410

1 until June 24, 2005 and called for Arroyo to file a response to the Staff Report by July 11, 2005.

2 5. On June 24, 2005, Staff filed its Staff Report in the application for CC&N and Sale of  
3 Assets. Arroyo failed to file a response to the Staff Report by the July 11, 2005 date ordered by the  
4 Commission.

5 6. In its June 24, 2005 Staff Report, Staff stated that additional information was needed  
6 to determine whether to grant the requested CC&N and Sale of Assets to Mr. Parker. The Staff  
7 Report recommended that the Company provide eight pieces of additional information.

- 8 1) A water use data sheet.
- 9 2) Requests for service from property owners in the service territory that is  
10 covered by the CC&N application that are outside the original Sheer Speed  
11 CC&N area.
- 12 3) Evidence or an affidavit that proper notice was provided to the affected  
13 customers regarding the application for CC&N and Sale of Assets.
- 14 4) Annual Reports for years 2003 and 2004 (Utilities Division).
- 15 5) Information about the proposed new well and the proposed additional storage.  
16 Additionally, provide description of what the Arroyo plans to do to meet  
17 production and storage needs and the timetable for completion.
- 18 6) Arsenic concentration levels for the existing well and the proposed well.
- 19 7) Gila County franchise approval for the area being requested.
- 20 8) Certification, receipt and/or cancelled check from Gila County Treasurer's  
21 Office that all liens have been paid.

22 7. On February 10, 2006, a procedural order outlined that Arroyo had failed to respond to  
23 the June 24, 2005 Staff Report and again ordered that the Company file a response to the Staff  
24 Report. The procedural order gave another deadline, February 24, 2006, for Arroyo's response.

25 8. On February 22, 2006, Staff received a very short letter from the Company stating that  
26 it had started to compile the data, but needed more time. The Company indicated that it was going to  
27 docket the letter, but this apparently never happened and no amount of additional time was specified.  
28 In verbal discussions, the Company indicated that it would have the information by May 1, 2006, but  
no information was provided by that date.

1           9.     A procedural order was issued on May 17, 2006, due to the Company's failure to  
2 provide the information necessary for Staff to make its recommendation. The procedural order  
3 required Staff to file a recommendation for appropriate action to be taken in this matter including, but  
4 not limited to, pursuit of an Order to Show Cause for failure to provide the additional information  
5 requested by Staff and failure to comply with the Administrative Law Judge's directives to respond to  
6 the Staff Report by providing the required information. Although the date for Staff's filing was  
7 stated as June 1, 2006, Staff requested and was granted an extension until June 15, 2006.

8           10.    On May 31, 2006, Staff received a filing from Arroyo which was purportedly to  
9 demonstrate that the Company was trying to comply with the eight items with which the Commission  
10 had ordered the Company to respond. Upon review, however, the filing consisted more of  
11 correspondence on Arroyo's attempts to determine how to proceed rather than the finalized data  
12 filings that were responsive to the eight outlined items from the June 24, 2005 Staff Report (see  
13 section number 6 above). The only items in the filing that appeared to be responsive to the Staff  
14 Report were a customer notification related to item number 3 and a single request for service relating  
15 to item number 2. The Company indicated that there were two written requests for service and a  
16 number of verbal requests for service. As the Company received two requests for service, Staff is  
17 missing evidence of one and the filing for item number 2 would not be complete. On June 8, 2006,  
18 Staff received another filing from the company with similar information as the May 31, 2006 filing.  
19 It did not include any data satisfying any of the remaining items required by Staff. Therefore, based  
20 on Staff's review, the Company failed to provide the necessary documentation for the following  
21 items:

- |    |               |   |  |
|----|---------------|---|--|
| 22 | Item Number 1 | - | Water Use Data Sheet.  |
| 23 | Item Number 2 | - | One Request for Service                                      |
| 24 | Item Number 4 | - | Annual Reports for years 2003 and 2004.                      |
| 24 | Item Number 5 | - | Information about Proposed Well, Storage and Plan.           |
| 25 | Item Number 6 | - | Arsenic concentration Levels.                                |
| 25 | Item Number 7 | - | Gila County Franchise Approval.                              |
| 26 | Item Number 8 | - | Gila County Treasurers Office Certification of lien payment. |

27           11.    The June 24, 2005 Staff Report indicated that the additional information requested in  
28 that report was necessary for Staff to make a recommendation in the CC&N and Sale of Assets case.

1 Approximately one year has elapsed since the Staff Report was filed and the Company was required  
2 to file a response. This OSC was filed as per the May 17, 2006 procedural order and because the  
3 Company has failed to provide the information required by Staff and has failed to respond to  
4 procedural orders directing such a response.

5 12. Finally, the Company is also delinquent on Annual Reports from the year 2000 until  
6 2005.

### 7 **COMPLAINT**

#### 8 **Count One**

#### 9 **(violation of Commission order)**

10 13. Staff incorporates the allegations of paragraphs 1-12 into this count.

11 14. Per multiple procedural orders in this docket, Arroyo was ordered to provide a  
12 response to the request for additional information outlined in the June 24, 2005 Staff Report. After  
13 almost a one year period, the Company has failed to provide the required information.

14 15. The failure of Arroyo to provide the required response to the Staff Report constitutes a  
15 violation of the Administrative Law Judge's procedural order directives and therefore Commission  
16 order.

#### 17 **Count Two**

#### 18 **(violation of A.R.S. § 40-204)**

19 16. Staff incorporates the allegations of paragraphs 1-15 into this count.

20 17. Under A.R.S. § 40-204, public service corporations are required to provide all  
21 reporting information required by the Commission in the manner in which the Commission requires  
22 it:

23 "Every public service corporation shall furnish to the commission, in the form and  
24 detail the commission prescribes, tabulations, computations, annual reports, monthly or  
25 periodical reports of earnings and expenses, and all other information required by it to  
26 carry into effect the provisions of this title and shall make specific answers to all  
27 questions submitted by the Commission."

28 19. Per various Commission orders, Arroyo has been required for almost a year to provide  
29 eight separate pieces of information originally outlined in the June 24, 2005 Staff Report. Complete  
30 information has not been provided at this time. The Company has proven difficult to contact and the

1 interval of time since the request was made has been unacceptable.

2 20. The failure to provide the Company response to the individual items in the Staff  
3 Report represents a violation of A.R.S. § 40-204, in that Arroyo failed to provide information in  
4 appropriate detail (most items went unaddressed) and failed to make specific answers to all the  
5 questions submitted by the Commission.

6 **Count Three**

7 **(violation of A.A.C. R14-2-411.D.4)**

8 21. Staff incorporates the allegations of paragraphs 1-20 into this count.

9 22. Pursuant to Arizona Revised Statutes Section 40-204 and Arizona Administrative  
10 Code R14-2-411.D.4, all public service corporations in Arizona are required to file an annual Utilities  
11 Division report on or before April 15 of each year.

12 23. Arroyo has failed to provide the Utilities Division Annual Report since the year 2000.  
13 The Annual Reports are part of the eight items required in the Staff Report on June 24, 2005 and are  
14 therefore covered in Count One of this complaint.

15 24. The 2005 Annual Report has not been provided to the Commission and the failure to  
16 provide this report is not covered by any of the other Counts within this action.

17 25. The failure of Arroyo to provide the Annual Reports since 2000 represents a violation  
18 of both Arizona Revised Statutes Section 40-204 and Arizona Administrative Code R14-2-411.D.4.

19  
20 **RELIEF**

21 **WHEREFORE**, Staff prays that the Commission issue:

22 26. An **ORDER TO SHOW CAUSE** directing the Respondent to show cause:

- 23 a. why its actions do not constitute a violation of Commission order via
- 24 procedural order directives;
- 25 b. why its actions do not represent a violation of A.R.S. § 40-204.
- 26 c. why its actions do not represent a violation of A.A.C. R14-2-411.D.4.
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- 27. After the conclusion of appropriate proceedings, a final **OPINION AND ORDER**:
  - a. finding that the above mentioned entity has violated a Commission order,
  - b. finding that the above mentioned entity has violated A.R.S. § 40-204;
  - c. finding that the above mentioned entity has violated A.A.C R14-2-411.D.4.
  - d. ordering the above mentioned entity to adhere to Commission orders, A.R.S. § 40-204 and A.A.C. R14-2-411.D.4 for all occurrences in the future;
  - f. ordering such other relief as the Commission may find just and reasonable.

28. A proposed order incorporating the recommendations of Paragraphs 1-27 is attached hereto as Exhibit 1.

RESPECTFULLY SUBMITTED this 15<sup>th</sup> day of June, 2006.

David Ronald  
 David Ronald  
 Attorney, Legal Division  
 Arizona Corporation Commission  
 1200 West Washington Street  
 Phoenix, Arizona 85007  
 (602) 542-6020

The original and thirteen (13) copies of the foregoing were filed this 15<sup>th</sup> day of June 2006 with:

Docket Control  
Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

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1 Copy of the foregoing mailed this  
2 15<sup>th</sup> day of June 2006, to:

3 Kacy Parker dba Arroyo Water Company  
4 HC 6, Box 1048-H  
5 Payson, Arizona 85541  
6 **(VIA CERTIFIED AND REGULAR MAIL)**

7 Mr. Richard W. Williamson  
8 Arroyo Water Company, Inc.  
9 Post Office Box 231  
10 Young, Arizona 85554  
11 **(VIA CERTIFIED AND REGULAR MAIL)**

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**BEFORE THE ARIZONA CORPORATION COMMISSION**

**COMMISSIONERS**

JEFF HATCH-MILLER  
WILLIAM A. MUNDELL  
MARC SPITZER  
MIKE GLEASON  
KRISTIN K. MAYES

IN THE MATTER OF THE COMMISSION ON ITS  
OWN MOTION INVESTIGATING THE FAILURE  
OF KACY PARKER DBA ARROYO WATER  
COMPANY, INC. TO COMPLY WITH  
COMMISSION RULES AND REGULATIONS.

DOCKET NO. W-04286A-06-0399

**ORDER TO SHOW CAUSE**

**DECISION NO.** \_\_\_\_\_

**OPEN MEETING  
JULY 25 AND 26, 2006  
PHOENIX, ARIZONA**

**BY THE COMMISSION:**

On June 15, 2006, Staff ("Staff") of the Utilities Division ("Division") of the Arizona Corporation Commission ("Commission") filed a Complaint and Petition for Order to Show Cause against Arroyo Water Company, Inc. ("Arroyo"), an Arizona Public Service Corporation. Staff seeks various relief, including the issuance of an Order to Show Cause against the Respondents.

Having considered the entire record herein and being fully advised in the premises, the Commission finds, concludes and orders that:

**FINDINGS OF FACT**

1. On October 19, 2004, Staff received an application from Kacy Parker requesting issuance of a new CC&N and approval of the sale of assets to Kacy Parker, dba Arroyo Water Company.

2. A procedural order issued on April 19, 2005, instructed Staff to file a Staff Report in the matter by June 3, 2005. On June 1, 2005, Staff filed a request for extension of time to file that Staff Report and on June 2, 2005, a procedural order granted Staff an extension on the Staff Report until June 24, 2005 and called for Arroyo to file a response to the Staff Report by July 11, 2005.

...

1           3.       On June 24, 2005, Staff filed its Report in the application for CC&N and Sale of  
2 Assets. Arroyo failed to file a response to the Staff Report by the July 11, 2005 date ordered by the  
3 Commission.

4           4.       In its June 24, 2005 Report, Staff stated that additional information was needed to  
5 determine whether to grant the requested CC&N and Sale of Assets to Mr. Parker. The Staff Report  
6 recommended that the Company provide eight pieces of additional information.

- 7                   1)       A water use data sheet.
- 8                   2)       Requests for service from property owners in the service territory that is  
9                   covered by the CC&N application that are outside the original Sheer Speed  
10                   CC&N area.
- 11                   3)       Evidence or an affidavit that proper notice was provided to the affected  
12                   customers regarding the application for CC&N and Sale of Assets.
- 13                   4)       Annual Reports for years 2003 and 2004 (Utilities Division).
- 14                   5)       Information about the proposed new well and the proposed additional storage.  
15                   Additionally, provide description of what the Arroyo plans to do to meet  
16                   production and storage needs and the timetable for completion.
- 17                   6)       Arsenic concentration levels for the existing well and the proposed well.
- 18                   7)       Gila County franchise approval for the area being requested.
- 19                   8)       Certification, receipt and/or cancelled check from Gila County Treasurer's  
20                   Office that all liens have been paid.

21           5.       On February 10, 2006, a procedural order outlined that Arroyo had failed to respond to  
22 the June 24, 2005 Staff Report and again ordered that the Company file a response to the Staff  
23 Report. The procedural order gave another deadline, February 24, 2006, for Arroyo's response.

24           6.       On February 22, 2006, Staff received a very short letter from the Company stating that  
25 it had started to compile the data, but needed more time. The Company indicated that it was going to  
26 docket the letter, but this apparently never happened and no amount of additional time was specified.  
27 In verbal discussions, the Company indicated that it would have the information by May 1, 2006, but  
28 no information was provided by that date.

...

1           7.     A procedural order was issued on May 17, 2006, due to the Company's failure to  
2 provide the information necessary for Staff to make its recommendation. The procedural order  
3 required Staff to file a recommendation for appropriate action to be taken in this matter including, but  
4 not limited to, pursuit of an Order to Show Cause for failure to provide the additional information  
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8           8.     On May 31, 2006, Staff received a filing from Arroyo which was purportedly to  
9 demonstrate that the Company was trying to comply with the eight items with which the Commission  
10 had ordered the Company to respond. Upon review, however, the filing consisted of correspondence  
11 on Arroyo's attempts to determine how to proceed rather than the finalized data filings that were  
12 responsive to the eight outlined items from the June 24, 2005 Staff Report (see section number 6  
13 above). The only items in the filing that appeared to be responsive to the Staff Report were a  
14 customer notification related to item number 3 and a single request for service relating to item  
15 number 2. The Company indicated that there were two written requests for service and a number of  
16 verbal requests for service. As the Company received two requests for service, Staff is missing  
17 evidence of one and the filing for item number 2 would not be complete. On June 8, 2006, Staff  
18 received another filing from the company with similar information as the May 31, 2006 filing. It did  
19 not include any data satisfying any of the remaining items required by Staff. Therefore, based on  
20 Staff's review, the Company failed to provide the necessary documentation for the following items:

- 21           Item Number 1         -     Water Use Data Sheet.  
22           Item Number 2         -     One Request for Service  
23           Item Number 4         -     Annual Reports for years 2003 and 2004.  
24           Item Number 5         -     Information about Proposed Well, Storage and Plan.  
25           Item Number 6         -     Arsenic concentration Levels.  
26           Item Number 7         -     Gila County Franchise Approval.  
27           Item Number 8         -     Gila County Treasurers Office Certification of lien payment.

28           9.     The June 24, 2005 Staff Report indicated that the additional information requested in  
that report was necessary for Staff to make a recommendation in the CC&N and Sale of Assets case.  
Approximately one year has elapsed since the Staff Report was filed and the Company was required

1 to file a response. This OSC was filed as per the May 17, 2006 procedural order and because the  
2 Company has failed to provide the information required by Staff and has failed to respond to  
3 procedural orders directing such a response.

4 10. Finally, the Company is also delinquent on Annual Reports from the year 2000 until  
5 2005.

6 11. Staff requests that we issue an Order to Show Cause directing Arroyo to show cause:

7 a. why its actions do not constitute a violation of a Commission order via the  
8 directives of procedural orders;

9 b. why its actions do not represent a violation of A.R.S. § 40-204.

10 c. why its actions do not represent a violation of A.A.C. R14-2-411.D.4.  
11

12 12. Staff's requests described in Finding of Fact No. 11 are reasonable.

13 CONCLUSIONS OF LAW

14 1. The Respondents are public service corporations within the meaning of Article XV of  
15 the Arizona Constitution and are subject to the jurisdiction of the Commission.

16 2. The Commission has jurisdiction over the subject matter of Staff's Complaint and  
17 Petition for Order to Show Cause.

18 3. Notice of this proceeding has been given in accordance with law.

19 4. It is lawful and in the public interest to issue the requested Order to Show Cause  
20 against the Respondent as described in Finding of Fact No. 11.

21 ORDER

22 IT IS THEREFORE ORDERED that Arroyo shall appear and show cause at a place  
23 designated by the Hearing Division:

24 (1) why its actions do not constitute a violation of a Commission order via the directives  
25 of procedural orders;

26 (2) why its actions do not represent a violation of A.R.S. § 40-204.

27 (3) why its actions do not represent a violation of A.A.C. R14-2-411.D.4.  
28 ...

1           IT IS FURTHER ORDERED that if Arroyo intends to appear and show cause as ordered  
2 above, they shall file within 10 days of the effective date of this Order a preliminary statement  
3 describing how they will make the showing of cause. This filing must include an Answer to Staff's  
4 Complaint if the filing Respondents have not yet filed an Answer.

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1 IT IS FURTHER ORDERED that the Hearing Division shall forthwith schedule further  
2 appropriate proceedings.

3 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

4 **BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION**

5  
6  
7 CHAIRMAN

COMMISSIONER

8  
9 COMMISSIONER

COMMISSIONER

COMMISSIONER

10  
11 IN WITNESS WHEREOF, I BRIAN C. McNEIL, Executive  
12 Director of the Arizona Corporation Commission, have  
13 hereunto, set my hand and caused the official seal of this  
14 Commission to be affixed at the Capitol, in the City of Phoenix,  
15 this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

16 \_\_\_\_\_  
17 BRIAN C. McNEIL  
18 Executive Director

19 DISSENT: \_\_\_\_\_

20  
21 DISSENT: \_\_\_\_\_

22 EGJ:BKB:lh\DMR:sab  
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1 Service List for: Arroyo Water Company, Inc.  
2 Docket No. W-04286A-06-0399

3 Kacy Parker dba Arroyo Water Company  
4 HC 6, Box 1048-H  
5 Payson, Arizona 85541  
6 **(VIA CERTIFIED AND REGULAR MAIL)**

7 Mr. Richard W. Williamson  
8 Arroyo Water Company, Inc.  
9 Post Office Box 231  
10 Young, Arizona 85554  
11 **(VIA CERTIFIED AND REGULAR MAIL)**

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